

AF *[signature]*

Docket No.: C035795/0125237

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : )  
Jerome O. CANTOR, *et al*, ) Examiner: Michael C. Henry  
Serial No.: 09/863,849 ) Art Unit: 1623  
Filed: May 23, 2001  
For: **METHOD FOR TREATING** )  
**RESPIRATORY DISORDERS**

New York, New York  
January 24, 2005

**NOTICE OF APPEAL FROM THE PRIMARY EXAMINER  
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants hereby appeal to the Board of Patent Appeals and Interferences from the Final Office Action mailed July 23, 2004 in which the Examiner withdrew from further consideration Claims 34-36, as well as Claims 6-12 and 14-20 which depend from Claims 34-36; and finally rejected Claim 5 under 35 U.S.C. §102(b), and Claims 21-24, 26, 27 and 30 under 35 U.S.C. §103 (a). Claims 31-33 have been allowed. The status of Claim 5 is not set forth in the Final Office Action.

The Office Action set an extendible three-month shortened statutory period for response. Applicant requests a three-month extension of time and encloses herewith the requisite fee for response (being \$910.00, Applicant having previously paid the \$110.00 fee for a one month extension of time in its November 23, 2004 response). Accordingly, this Notice of

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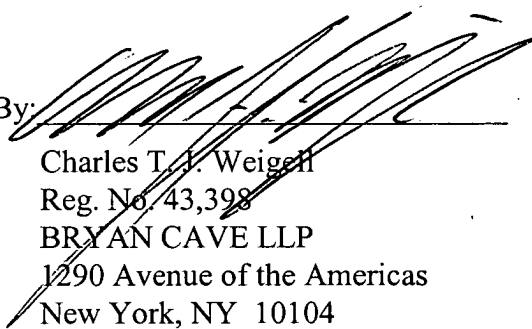
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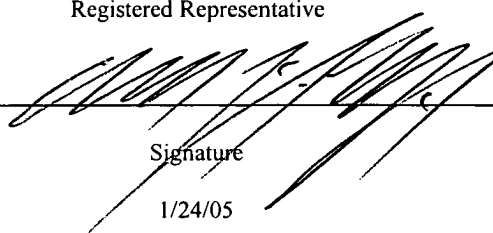
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910.00 OP

Appeal is timely with an executed certificate of mailing, on or before January 24, 2005 (as January 23, 2005 is a Sunday). 37 C.F.R. §§ 1.7 and 1.8. A check in the amount of \$500.00 for the Appeal Fee is enclosed.

It is not believed that this response requires any other fees, but if our checks are missing or otherwise insufficient, or if any additional fees are required, for example, for lodging this appeal or for filing the Appeal Brief, not otherwise paid by check, the Commissioner is authorized to charge (or credit any overpayment) to Deposit Account No. 02-4467. A duplicate copy of this sheet is enclosed.

By:

  
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope with sufficient postage addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on January 24, 2005	
January 24, 2005	
Charles T. J. Weigell	
Name of applicant, assignee, or Registered Representative	
	
Signature	
1/24/05	
Date of Signature	